



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,430	04/02/2001	Luther Jackson	GE-07043	8163
28581	7590	03/25/2005	EXAMINER	
DUANE MORRIS LLP PO BOX 5203 PRINCETON, NJ 08543-5203			MEINECKE DIAZ, SUSANNA M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,430

Applicant(s)

JACKSON ET AL.

Examiner

Susanna M. Diaz

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3623

DETAILED ACTION

1. Claim 1 is presented for examination.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

Claim Objections

4. Claim 1 is objected to because of the following informalities:

Claim 1, line 1: Please write out "ILS" as "Integrated Logistic Support" at least the first time it is used in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, while claim 1 produces a useful, concrete, and tangible result, it does not incorporate technology; therefore, claim 1 is non-statutory. In order to overcome this rejection, at least one of the core steps of the invention (e.g., a calculation or analysis step) should be expressly recited as performed by technology (e.g., a computer or processor).

Appropriate correction is required.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (as disclosed in the "Background of the Invention" on pages 1-5 of the specification).

Applicant's admitted prior art discloses a method for determining the ILS date for any particular ship upgrade or alteration, said method comprising the steps of:

[Claim 1] generating change documents for correcting at least some perceived problems associated with a particular type of equipment associated with at least one ship (Page 1, lines 9-12; Page 4, lines 12-26);

associating with each said change document the identities of one or more ships having said particular type of equipment (Page 4, line 23 through Page 5, line 4 -- The Background of the Invention acknowledges that, while this is a difficult task, it needs to be, i.e., has been already been, performed);

scheduling at least one of said ships having said particular type of equipment for ship upgrade at a particular date (Page 3, lines 9-19 -- The upgrade of a particular type of ship at a given upgrade site is planned);

obtaining from material vendors a promised delivery date for delivery of each alteration kit associated with each ship upgrade (Page 3, lines 9-19);

selecting a particular ship upgrade for which the ILS date is desired (Page 3, lines 9-32).

While Applicant's admitted prior art does not expressly state that the ILS date for a selected ship upgrade is set as the promised date which is most remote in time, Applicant's admitted prior art does essentially state that an upgrade cannot be officially completed until all upgrade requirements are met (i.e., all parts required for upgrade are received, all technical manuals are updated, etc.):

... At some point in the accumulation process, lifetime support and depot operations collaborate on the status of critical logistical elements, which indicate what particular components of the necessary alteration kit or kits have been delivered, but as to undelivered materials, has only a manufacturer's promised delivery date upon which to rely. The scheduling of the upgrade is, of course, based upon the promised delivery dates. If these dates are not met, the materials cannot be shipped to the upgrade site so as to arrive in time for the scheduled starting date. the materials do not arrive on the manufacturer's promised date, then, the upgrade cannot begin, and the upgrade site, as for example a dry-dock, has a ship sitting therein on which work cannot be started, at least as to the missing alteration kits. Such late-arriving alteration kits can be stored until a later scheduled upgrade time, possibly years in the future, but cannot be installed during this particular scheduled upgrade interval...

Each ship upgrade requires upgrading of the technical manuals associated with the upgraded equipment so that the upgraded equipment may be properly maintained. If the technical manual is classified, it must be treated differently than spare parts. Documentation must be provided for the handling of the technical manuals, and their arrival in time for the upgrade must be considered. (Page 3, lines 9-32; Page 4, lines 12-20)

Since Applicant's admitted prior art acknowledges that an upgrade cannot be officially completed until all upgrade requirements are met (i.e., all parts required for upgrade are received, all technical manuals are updated, etc.) and that scheduling is typically based on the promised delivery dates of materials required to perform the upgrade, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to perform with the prior art method of selecting a ship upgrade, selecting that one of said promised dates which is most remote in time and deemed said one of said promised dates to be said ILS date in order to help ensure that the ILS date is reasonably set at a time when all upgrade requirements will have been met (i.e., all parts required for upgrade will have been received, all technical manuals will have been updated, etc.).

(Please note that the Examiner understands that Applicant's intended invention is meant to address an improved method for determining "the status of accumulation of the necessary equipments for an upgrade of a major asset" (page 5, lines 10-13 of the specification); however, the details of such an improved method have not been clearly expressed in the claimed invention.)

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

"Ship Self Defense." Program Element Description Summary - FY1999,
Published by Forecast International/DMS [Dialog File 388, Accession No. 09008530],

Art Unit: 3623

May 20, 1998 -- Discloses Lockheed Martin's (the assignee's) budget for performing various activities, including ship upgrades and integrated logistics support.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 20, 2005

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER
AU 3623